STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED September 29, 2000
v	No. 211356 Wayne Circuit Court
EURAL KIRKSEY, Defendant-Appellant.	LC No. 97-005734 AFTER REMAND

Before: Meter, P.J., and Griffin and Owens, JJ.

PER CURIAM.

Defendant appeals by right from his conviction, following a bench trial, of attempted larceny from a motor vehicle, MCL 750.356a; MSA 28.588(1); MCL 750.92; MSA 28.287. The trial court sentenced him to six to thirty months in prison. This matter is before the Court after remand to the trial court for additional findings of fact regarding the issue of defendant's state of mind. We affirm.

This case arises from the carjacking of a Chevrolet Astro van owned by Lawrence Houston on July 14, 1997. Houston had just finished pumping gas at a gas station located at 17707 Plymouth Road in Detroit when his van was stolen. Later that evening, two Detroit police officers spotted defendant attempting to remove the tires of the van in the backyard of a house at 9101 Norcross Street in Detroit. The officers apprehended defendant at this time.

Defendant contends that there was insufficient evidence to establish that he knew the van was stolen when he attempted to remove its tires.[1] We disagree. "When reviewing a claim of insufficient evidence following a bench trial, this Court must view the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt . . . . Circumstantial evidence, and reasonable

[1] At trial, defendant claimed that he did not know the van was stolen when he attempted to remove the tires. He claimed that he was approached by two men in the Astro van while he was visiting a friend and that he agreed to switch the vans' tires with the tires of another vehicle in exchange for money. However, defendant admitted that the amount of money he was allegedly going to receive for this task "was never brought up."

inferences arising from the evidence, may constitute satisfactory proof of the elements of the offense." *People v Hutner*, 209 Mich App 280, 282; 530 NW2d 174 (1995) (citations omitted).

To be convicted for attempted larceny from a motor vehicle, a defendant must have possessed the specific intent to permanently deprive the owner of the property. See *People v James*, 142 Mich App 225, 228; 369 NW2d 216 (1985). Here, the trial court's finding on remand that defendant knowingly attempted to permanently deprive Houston of his property was supported by the condition of the van and the circumstances surrounding the attempted removal of the tires. First, defendant's explanation for why he was attempting to remove the tires[2] was highly improbable. Second, the van's speakers had been removed from the interior of the van and some loose wires were dangling. Third, defendant *concedes* in his appellate brief that the tires were being removed in order to steal them, and it is unlikely that defendant did not know about the theft when he concedes that others at the scene did. Finally, defendant's behavior after the police arrived at the scene belies his claims that he did not know he was stealing. Defendant suggested in his testimony that he decided to get up from the ground and run after the police arrived because he feared he might be shot when he saw that another suspect at the scene was carrying a gun. However, the testimony of the police officer at the scene suggested that defendant did not start running until after the other suspect was apprehended. Eventually, defendant admitted that he was running from the police and that he was not, at least during certain parts of his run, in fear of being shot.

The totality of this evidence, when viewed in the light most favorable to the prosecution, was sufficient such that a rational trier of fact could conclude that defendant knew the van was stolen and intended to permanently deprive the owner of the property in question. See *People v McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999) ("Because of the difficulty of proving an actor's state of mind, minimal circumstantial evidence is sufficient.").

Affirmed.

/s/ Patrick M. Meter
/s/ Richard Allen Griffin
/s/ Donald S. Owens

[2] See footnote 1, *supra*.